

Docket No.: IRDM.056CP

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Customer No.: 20,995

AMENDMENT / RESPONSE TRANSMITTAL

Applicant : Mark W. Miles
App. No. : 09/413,222
Filed : October 5, 1999
For : PHOTONIC MEMS AND
STRUCTURES
Examiner : Dang, Hung Xuan
Art Unit : 2873

CERTIFICATE OF FAX TRANSMISSION
PTO CENTRALIZED FAX

I hereby certify that this correspondence and all
marked attachments are being transmitted via
facsimile to the USPTO centralized Fax No.
(703) 872-9306 on the date shown below:

December 14, 2004

(Date)

Mark M. Abumeri, Reg. No. 43,458

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing in the above-identified application are the following enclosures:

- (X) Supplement Request to Withdraw Holding of Abandonment under 37 C.F.R. § 1.181(a) in 3 pages.
- (X) Exhibit I- Copy of Petition to Withdraw Holding of Abandonment under 37 C.F.R. § 1.181(a) mailed October 20, 2003; Copy of Postcard and Transmittal Form mailed on October 20, 2003; Notice of Allowance mailed October 21, 2002
- (X) Exhibit II- Copy of Stamped Postcard received October 24, 2003 at the USPTO.
- (X) Please charge the total fees due in the amount of \$130.00 to Deposit Account No. 11-1410.
- (X) Please charge any additional fees or credit overpayment to Deposit Account No. 11-1410.

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TECHNOLOGY CENTER 2800
SPECIAL PROGRAM CENTER

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Mark M. Abumeri
Registration No. 43,458
Attorney of Record
Customer No. 20,995
(619) 235-8550

DEC 14 2004

IRDM.056CP

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Mark W. Miles
Appl. No. : 09/413,222
Filed : October 5, 1999
For : PHOTONIC MEMS AND
STRUCTURES
Examiner : Dang, Hung Xuan

Group Art Unit 2873

CERTIFICATE OF FAX
TRANSMISSION
PTO CENTRALIZED FAX

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and all marked attachments are being
transmitted via facsimile to the USPTO
centralized Fax No. (703) 872-9306 on
the date shown below:

October 22, 2004

(Date)

Mark M. Abumeri Reg. No. 43,458

SUPPLEMENTAL REQUEST TO WITHDRAW HOLDING OF ABANDONMENT
UNDER 37 C.F.R. § 1.181(a)

RECEIVED

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

JAN 13 2005

TECHNOLOGY CENTER 2800
SPECIAL PROGRAM CENTER

Dear Sir:

Applicant hereby submits this Supplemental Request to Withdraw the Holding of Abandonment ("Supplemental Request"), seeking action by the Office on a Petition to Withdraw Holding of Abandonment Under 37 C.F.R. § 1.181(a) ("Petition"), which Applicant previously filed on October 20, 2003. The basis for this Supplemental Request is provided below.

To date, Applicant has been unsuccessful in obtaining a decision by the Office regarding the Petition filed on October 20, 2003, a copy of which is attached hereto as Exhibit I. Applicant maintains its position that the Notice of Abandonment of U.S. Application No. 09/413,422 mailed by the Office on August 29, 2003, was made in error. In light of the fact that Applicant has not received a decision from the Office regarding its previously filed October 20th Petition,

Applicant hereby submits a Supplemental Request to Withdraw Holding of Abandonment, setting forth the facts and evidence as set forth in its previous Petition regarding this matter.

On October 21, 2002, the U.S. Patent and Trademark Office ("the Office") mailed a Notice of Allowance and Issue Fee Due for U.S. Application No. 09/413,422. The due date for payment of the Issue Fee was set for January 21, 2003.

On January 21, 2003, Applicant filed a Request for Continued Examination ("RCE") under 37 C.F.R. § 1.114 (a copy of which is provided herewith as part of Exhibit I), along with an Information Disclosure Statement ("IDS") and the requisite fees were filed with the RCE. As Applicant's submission was mailed prior to the payment of the issue fee or abandonment of the application, it was timely filed under 37 C.F.R. § 1.114. Applicant submitted therewith a stamped postcard listing the contents of the submission. On January 24, 2003, the Office date-stamped the postcard, indicating that the Office received the RCE (a copy of the postcard is provided herewith as the last page of Exhibit I).

On August 29, 2003 the Office mailed a Notice of Abandonment for U.S. Application No. 09/413,422, for failure to pay the issue fee within three months from the mailing date of the Notice of Allowance (i.e., January 21, 2003).

On October 20, 2003, Applicant timely filed a Petition to Withdraw Holding of Abandonment under 37 C.F.R. § 1.181(a), including copies of all of the aforementioned documents in support of Applicant's position. *See Exhibit I.* Applicant submitted therewith a stamped postcard listing the contents of the submission. On October 24, 2003, the Patent Office date-stamped the postcard, indicating that the Office received Applicant's Petition on October 24, 2003. A copy of the stamped postcard is attached hereto as Exhibit II.

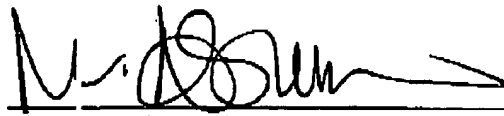
In light of the foregoing, Applicant respectfully requests that the Holding of Abandonment be withdrawn. No fees are believed to be due for this Supplemental Request; however, please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

If there is any impediment to the prompt withdrawal of the Holding of Abandonment, please call the undersigned attorney of record at the telephone number below so that any remaining issues can be promptly resolved.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: December 14, 2004

By:



Mark M. Abumeri
Reg. No. 43,458
Attorney of Record
Customer No. 20,995
(619) 235-8550

S:\DOCS\KXM\KXM-1061.DOC
102204

S:\DOCS\MMA\MMA-9308.DOC

Exhibit I-Page 1 of 14

5652P016X

PATENTIN THE UNITED STATES PATENT AND TRADEMARK OFFICERECEIVED
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In re Application of:

Mark W. Miles

Application No.: 09/413,222

Filing Date: October 5, 1999

For: PHOTONIC MEMS AND
STRUCTURESExaminer: Dang, Hung XuanArt Unit: 2873

DEC 14 2004

FIRST CLASS CERTIFICATE OF MAILING (37 C.F.R. § 1.8(a))
I hereby certify that this correspondence is being deposited with the
United States Postal Service as first class mail with sufficient postage
in an envelope addressed to the Assistant Commissioner for Patents,
Washington, D.C. 20231 on:

October 20, 2003

(Date of Deposit)

Karen L. Kuhner

(Name of Person Mailing Correspondence)

(Signature)

(Date)

Commissioner for Patents
P.O. Box 1450
Mail Stop: Issue Fee
Alexandria, VA 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT
UNDER 37 C.F.R. § 1.81(a)

Dear Sir:

This is a petition to withdraw the Notice of Abandonment which was mailed to Applicant on August 29, 2003. Applicant believes the Notice of Abandonment was mailed in error according to the facts listed below and the attached exhibits.

1. Applicant received a Notice of Allowance and Issue Fee Due for Serial No. 09/413,222 which was mailed from the U.S. Patent and Trademark Office (hereinafter referred to as "Patent Office") on October 21, 2002. The due date for payment of the Issue Fee was January 21, 2003. A copy of this Notice of Allowance is attached hereto as Exhibit A.

2. On January 21, 2003, Applicant filed a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114. A copy of the RCE transmittal is attached hereto as Exhibit B.

09/413,222

1

Exhibit I-Page 2 of 14

5652P016X

PATENT

3. The RCE was mailed First Class Mail. The postcard that accompanied the RCE was date-stamped by the Patent Office as being received on January 24, 2003. A copy of the postcard is attached hereto as Exhibit C.

4. Applicant received a Notice of Abandonment for Serial No. 09/413,222 which was mailed on August 29, 2003. The Notice of Abandonment indicated that Serial No. 09/413,222 was abandoned for failure to pay the Issue Fee in a timely manner. A copy of the Notice of Abandonment is attached hereto as Exhibit D.

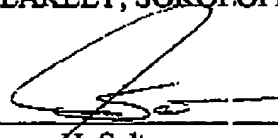
5. The filing of the RCE was proper under 37 C.F.R. § 1.114 and was within the time period for reply specified in the Notice of Allowance thus making the Notice of Abandonment improper.

In the circumstances, Applicant petitions the Patent Office to withdraw the Notice of Abandonment.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: 12/20/, 2003


James H. Salter
Reg. No. 35,668

Customer No. 008791
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026
(408) 720-8300

Exhibit I-Page 3 of 14

file

Application No.: 09/413,222 Filing Date: 10/5/1999Docket #: 005652.P016XDate Mailed: 10/20/2003 Due Date(s): _____Client: IRIDIGM DISPLAY CORPORATIONAtty/Sec: JHS/XM/klkTitle: Photonic MEMS and StructuresFirst Named Inventor: Mark W. MilesThe following has been received in the U.S.P.T.O. on the date stamped hereon:

Certificate of Mailing


Transmittal Letter


Petition to Withdraw Holding of Abandonment (2); Copy of Notice of Allowance 10/21/02 (8); Copy of RCE 1/21/03 (1); Copy of Postcard 1/21/03 (1); Copy of Office Action 8/29/03 (3) pages.
PostcardAssignee: Iridigm Display Corporation

Exhibit I-Page 4 of 14

TRANSMITTAL FORM (to be used for all correspondence after initial filing)		Application No.	09/413,222
		Filing Date	October 5, 1999
		First Named Inventor	Mark W. Miles
		Art Unit	2873
		Examiner Name	Dang, Hung X.
Total Number of Pages in This Submission	16	Attorney Dock # Number	5652P016X

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> PTO/SB/08 <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Basic Filing Fee <input type="checkbox"/> Declaration/POA <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <div style="border: 1px solid black; padding: 5px; margin-top: 5px;">Petition to Withdraw Holding of Abandonment (2); Copy of Notice of Allowance 10/21/02 (8); Copy of RCE 1/21/03 (1); Copy of</div>
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	James H. Salter, Reg. No. 35,668 BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Signature	
Date	10/20/03

CERTIFICATE OF MAILING/TRANSMISSION			
I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.			
Typed or printed name	Karen Kuhner		
Signature		Date	October 20, 2003

Based on PTO/SB/21 (08-03) as modified by Blakely, Sokoloff, Taylor & Zafman (wtr) 09/11/2003
SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Exhibit I-Page 5 of 14



UNITED STATES PATENT AND TRADEMARK OFFICE

 UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER OF PATENTS AND TRADEMARKS
 Washington, D.C. 20591
 www.uspto.gov

ENTERED

NOV - 1 2002 NOTICE OF ALLOWANCE AND FEE(S) DUE

 7590
 DAVID L FEIGENBAUM ESQ
 FISH & RICHARDSON PC
 225 FRANKLIN ST
 SUITE 3100
 BOSTON, MA 02110

EXAMINER

DANG, HUNG XUAN

ART UNIT

CLASS-SUBCLASS

2873

345-540000

DATE MAILED: 10/21/2002

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/413,222	10/05/1999	MARK W. MILES	01568-010001	1748

TITLE OF INVENTION: PHOTONIC MEMS AND STRUCTURES

 Docketed By Billing Secretary
 Due Date: 1/21/03
 Deadline:
 Initials: Hja

APPL. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$640	\$0	\$640	01/21/2003

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.
- B. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.

- ☐ Applicant claims SMALL ENTITY status.
See 37 CFR 1.27.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (REV. 04-02) Approved for use through 01/31/2004

Page 1 of 4

ENTERED

 DOCKETED BY PRACTICE SYSTEMS
 Action Code: 288 Issue Fee
 Base Date: 10-21-02
 Due Date: 12-21-02
 Deadline: 1-21-03
 Initials: HEC On

Exhibit I-Page 6 of 14

DLF



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20531
www.uspto.gov

NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 10/21/2002

DAVID L. FEIGENBAUM ESQ
FISH & RICHARDSON PC
225 FRANKLIN ST
SUITE 3100
BOSTON, MA 02110

EXAMINER

DANG, HUNG XUAN

ART UNIT

CLASS-SUBCLASS

2873

345-540000

DATE MAILED: 10/21/2002

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/413,222	10/05/1999	MARK W. MILES	01568-010001	1748

TITLE OF INVENTION: PHOTONIC MEMS AND STRUCTURES

Docketed By Billing Secretary
Due Date: 1/21/03
Deadline:
Initials: RJA

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$640	\$0	\$640	01/21/2003

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A. Pay TOTAL FEE(S) DUE shown above, or

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☐ Applicant claims SMALL ENTITY status.
See 37 CFR 1.27.

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III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

Page 1 of 4

DOCKETED BY PRACTICE SYSTEMS
Action Code: ESP Issue Fee
Base Date: 10-21-02
Due Date: 12-21-02

Exhibit I-Page 7 of 14

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail Box ISSUE FEE**
Commissioner for Patents
Washington, D.C. 20231
Fax (703) 746-4000

INSTRUCTIONS: This form should be used for transmitting the **ISSUE FEE** and **PUBLICATION FEE** (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark up with any corrections or use Block 1)

7590

10/21/2002

DAVID L FEIGENBAUM ESQ
FISH & RICHARDSON PC
225 FRANKLIN ST
SUITE 3100
BOSTON, MA 02110

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box-Issue Fee address above, or being facsimile transmitted to the USPTO, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/413,222	10/03/1999	MARK W. MILES	01568-010001	1748

TITLE OF INVENTION: PHOTONIC MEMS AND STRUCTURES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$640	\$0	\$640	01/21/2003

EXAMINER	ART UNIT	CLASS-SUBCLASS
DANG, HUNG XUAN	2873	345-540000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____
 2 _____
 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) ☐ individual ☐ corporation or other private group entity ☐ government

4a. The following fee(s) are enclosed:

- ☐ Issue Fee
☐ Publication Fee
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

- ☐ A check in the amount of the fee(s) is enclosed.
☐ Payment by credit card. Form 1-TO-2038 is attached.
☐ The Commissioner is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply a previously paid issue fee to the application identified above.

(Authorized Signature)

(Date)

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant, a registered attorney or agent, or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMIT THIS FORM WITH FEE(S)

Exhibit I-Page 8 of 14



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20531
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/413,222	10/05/1999	MARK W. MILES	01568-010001	1748
EXAMINER				
DANG, HUNG XUAN				
ART UNIT			PAPER NUMBER	
2873				

7590 10/21/2002

DAVID L. FEIGENBAUM ESQ
FISH & RICHARDSON PC
225 FRANKLIN ST
SUITE 3100
BOSTON, MA 02110

DATE MAILED: 10/21/2002

Determination of Patent Term Extension under 35 U.S.C. 154 (b)
(application filed after June 7, 1995 but prior to May 29, 2000)

The patent term extension is 0 days. Any patent to issue from the above identified application will include an indication of the 0 day extension on the front page.

If a continued prosecution application (CPA) was filed in the above-identified application, the filing date that determines patent term extension is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) system. (<http://pair.uspto.gov>)

Any questions regarding the patent term extension or adjustment determination should be directed to the Office of Patent Legal Administration at (703)305-1383.

RECEIVED
OCT 28 2002
FISH & RICHARDSON, P.C.
BOSTON OFFICE

Exhibit I-Page 9 of 14



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20221
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/413,222	10/05/1999	MARK W. MILES	01568-010001	1748
7590	10/21/2002		EXAMINER	
DAVID L FEIGENBAUM ESQ FISH & RICHARDSON PC 225 FRANKLIN ST SUITE 3100 BOSTON, MA 02110			DANG, HUNG XUAN	
			ART UNIT	PAPER NUMBER
			2873	
DATE MAILED: 10/21/2002				

Notice of Possible Fee Increase on October 1, 2002

If a reply to a "Notice of Allowance and Fee(s) Due" is filed in the Office on or after October 1, 2002, then the amount due may be higher than that set forth in the "Notice of Allowance and Fee(s) Due" since there may be an increase in fees effective on October 1, 2002. See Revision of Patent and Trademark Fees for Fiscal Year 2003: Notice of Proposed Rulemaking, 67 Fed. Reg. 30634, 30636 (May 7, 2002). Although a change to the amount of the publication fee is not currently proposed for October 2002, if the issue fee or publication fee is to be paid on or after October 1, 2002, applicant should check the USPTO web site for the current fees before submitting the payment. The USPTO Internet address for the fee schedule is: <http://www.uspto.gov/main/howtofees.htm>.

If the issue fee paid is the amount shown on the "Notice of Allowance and Fee(s) Due," but not the correct amount in view of any fee increase, a "Notice to Pay Balance of Issue Fee" will be mailed to applicant. In order to avoid processing delays associated with mailing of a "Notice to Pay Balance of Issue Fee," if the response to the Notice of Allowance and Fee(s) due form is to be filed on or after October 1, 2002 (or mailed with a certificate of mailing on or after October 1, 2002), the issue fee paid should be the fee that is required at the time the fee is paid. If the issue fee was previously paid, and the response to the "Notice of Allowance and Fee(s) Due" includes a request to apply a previously-paid issue fee to the issue fee now due, then the difference between the issue fee amount at the time the response is filed and the previously paid issue fee should be paid. See Manual of Patent Examining Procedure, Section 1308.01 (Eighth Edition, August 2001).

Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

Exhibit I-Page 10 of 14

Notice of Allowability

Application No.

09/413,222

Applicant(s)

Miles

Examiner

Hung X. Dang

Art Unit

2873

The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLC SED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/20/02
2. ☒ The allowed claim(s) is/are 5, 6, 52, 53, and 56-61
3. ☐ The drawings filed on _____ are accepted by the Examiner.

4. ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119

a) ☐ All b) ☐ Some* c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

5. ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

8. ☒ CORRECTED DRAWINGS must be submitted.

- (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☒ to Paper No. 10
- (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the examiner.
- (c) ☐ including changes required by the attached Examiner's Amendment/Comment or in the Office action of Paper No. _____

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the top margin (not the back) of each sheet. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- 1 ☐ Notice of References Cited (PTO-892)
- 3 ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 5 ☐ Information Disclosure Statement(s) (PTO-1449), Paper No(s). _____
- 7 ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- 9 ☐ Other
- 2 ☐ Notice of Informal Patent Application (PTO-152)
- 4 ☐ Interview Summary (PTO-413), Paper No. _____
- 6 ☐ Examiner's Amendment/Comment
- 8 ☒ Examiner's Statement of Reasons for Allowance

Processed By Billing Secretary

Lee Woon

Deadline:

Initials:

Exhibit I-Page 11 of 14

Serial Number: 09/413,222

Page 2

Art Unit: 2873

Reasons For Allowance

1. The following is an Examiner's Statement of Reasons for Allowance:

the prior art taken either singly or in combination fails to anticipate or fairly suggest that which the Applicant claims in claim 5 in a manner which would warrant a rejection under 35 U.S.C. § 102 or 35 U.S.C. § 103.

There was no prior art found by the examiner that suggested modification or combination with the cited prior art so as to satisfy the combination of the present independent claim 5; especially, the prior art does not provide release of the device occurring when the difference between the values of the data voltage and the select voltage is below a second predetermined level lowest, and the device maintaining its state when the select voltage is at the bias level as recited by claim 5.

Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably accompany the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

2. Any inquiry concerning this communication should be directed to Examiner Dang at telephone number (703) 308-0550.

9/02

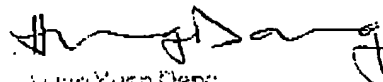

Hung Xuan Dang
Examiner

Exhibit I-Page 12 of 14

Serial Number: 09/413,222

Page 2

Art Unit: 2873

Reasons For Allowance

1. The following is an Examiner's Statement of Reasons for Allowance:

the prior art taken either singly or in combination fails to anticipate or fairly suggest that which the Applicant claims in claim 5 in a manner which would warrant a rejection under 35 U.S.C. § 102 or 35 U.S.C. § 103.

There was no prior art found by the examiner that suggested modification or combination with the cited prior art so as to satisfy the combination of the present independent claim 5; especially, the prior art does not provide release of the device occurring when the difference between the values of the data voltage and the select voltage is below a second predetermined level lowest, and the device maintaining its state when the select voltage is at the bias level as recited by claim 5.

Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably accompany the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

2. Any inquiry concerning this communication should be directed to Examiner Dang at telephone number (703) 308-0550.

9/02


Hung Xuan Dang
Primary Examiner

Exhibit I-Page 13 of 14

PTO/SB/00 (10-01)

Approved for use through 10/31/2000. OMB 0851-0031
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

Address to:
Commissioner for Patents
BOX RCE
Washington, DC 20231

Application No.	09/413,222
Filing Date	October 5, 1999
First Named Inventor	Mark W. Miles
Group Art Unit	2873
Examiner Name	Dang, Hung X.
Attorney Docket Number	5652P016X

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR § 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. Submission required under 37 C.F.R. § 1.114

- a. ☐ Previously submitted
- i. ☐ Consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on
(Any unentered amendment(s) referred to above will be entered).
- ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on
- iii. ☐ Other _____
- b. ☒ Enclosed
- i. ☐ Amendment/Reply
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☒ Information Disclosure Statement (IDS)
- iv. ☐ Other _____

2. Miscellaneous

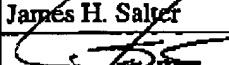
- a. ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. § 1.103(c) for a period of months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. § 1.17(i) required)
- b. ☐ Other _____

3. Fees

- The RCE fee under 37 C.F.R. § 1.17(e) is required by 37 C.F.R. § 1.114 when the RCE is filed.
- a. ☐ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 02-2666.
- i. ☒ RCE fee required under 37 C.F.R. § 1.17(e)
- ii. ☐ Extension of time fee (37 C.F.R. § 1.136 and 1.17)
- iii. ☐ Other: (\$00) _____
- b. ☒ Check in the amount of \$375.00 enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

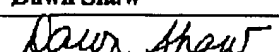
WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type)	James H. Salter	Registration No. (Attorney/Agent)	35,668
Signature		Date	1/21/03

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class mail with sufficient postage in an envelope addressed to: Box RCE, Assistant Commissioner for Patents, Washington, D.C. 20231 on:

Name (Print/Type)	Dawn Shaw	Date	1-21-03
Signature			

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS.
SEND TO: Commissioner for Patents, Box RCE, Washington, DC 20231.

Exhibit I-Page 14 of 14

Application No: 09/413,222 Filing Date: 10/05/99 BSYZ Docket #: 005652 P016X AttySec: JMS/VXOM/
 Date Mailed: 11/21/2003 Docket Due Date(s): 11/21/2003 Client: Indign Display Corporation
 Title Photonic MEMS and Structures

Inventor(s) Miles

The following has been received in the U.S. Patent & Trademark Office on the date set mood herein:

- | | |
|---|---|
| <input type="checkbox"/> Amendment (___ pgs) | <input checked="" type="checkbox"/> Information Disclosure Statement & PTO/SB/08 (___ pgs) |
| <input type="checkbox"/> Appeal Brief & two copies (___ pgs) | <input type="checkbox"/> Issue Fee Transmittal (original & copy) |
| <input type="checkbox"/> Application:
(___ pages w/ cover & abstract) | <input type="checkbox"/> Nonpublication Request Under 35 U.S.C. 122(b)(2)(B)(i) |
| <input type="checkbox"/> Assignment & Cover Sheet (___ pgs) | <input type="checkbox"/> Notice of Appeal |
| <input checked="" type="checkbox"/> Certificate of Mailing | <input type="checkbox"/> Petition for: _____ |
| <input type="checkbox"/> Continued Prosecution Application (CPA) | <input checked="" type="checkbox"/> Request for Continued Examination (RCE) |
| <input type="checkbox"/> Declaration & POA (___ pgs) | <input type="checkbox"/> Reply Brief (___ pgs) |
| <input type="checkbox"/> Drawings: ___ sheets, ___ figures | <input type="checkbox"/> Request to Reconsider Previous Nonpublication Request |
| <input type="checkbox"/> Express Mail No: _____ | <input type="checkbox"/> Response to Notice of Missing Parts & Formalities Letter |
| <input type="checkbox"/> Extension of Time: _____ | <input type="checkbox"/> Terminal Disclaimer |
| <input checked="" type="checkbox"/> Fee Transmittal (original & copy) | <input type="checkbox"/> Transmittal of Formal Drawings |
| <input checked="" type="checkbox"/> Other: <u>Request for Continued Examination (RCE)</u> | <input type="checkbox"/> Transmittal of Publication Fee Due |
| <u>Return Postcard</u> | <input checked="" type="checkbox"/> Transmittal Letter |
| <u>SV</u> | <input checked="" type="checkbox"/> Check No. <u>55143</u> In the Amount of <u>\$375.00</u> |
| <u>Cited Art (13)</u> | <input type="checkbox"/> Check No. _____ In the Amount of _____ |
- Assignee: Indign Display Corporation

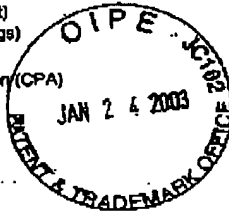


Exhibit II-Page 1 of 1

RECEIVED

OCT 29 2003

BLAKELY, BOKOLOFF, TAYLOR & ZAFIAN LLP
LOS ANGELES

Application No.: 09/413,222 Filing Date: 10/5/1999 Docket #: 005652.P016X
Date Mailed: 10/20/2003 Due Date(s): _____
Client: IRIDIGM DISPLAY CORPORATION Atty/Sec: JHS/VXM/kik
Title: Photonic MEMS and Structures

First Named Inventor: Mark W. MilesThe following has been received in the U.S.P.T.O. on the date stamped hereon:

Certificate of Mailing

Transmittal Letter

Petition to Withdraw Holding of Abandonment (2); Copy of Notice of Allowance 10/21/02 (8); Copy of
RCE 1/21/03 (1); Copy of Postcard 1/21/03 (1); Copy of Office Action 8/29/03 (3) pages.
Postcard

Assignee: Iridigm Display Corporation

ENTERED
JHS DB